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File No. O. Refugees 49

Legal Deptt.
BRANCH

Subject:— Opinions under the Bombay Refugees Act, 1948

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File No. O. Refugee/49

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C O N T E N T S.

Legal Department File No. O. Refugees /49.

Sr. No.	R.I/C.No.	Subject	Pages.
1)	4920 22-8-49	Bombay Refugee Act, 1948 Sec. 2 - Interpretation of term "regujees".	1 -
2]	14229 8-12-49	Sec. 4 (1) and Sec 10 (ii) - whether displaced persons coming to this Province from other provinces can be refused registration under the Act.	3-

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Office of the R.L.A.

Interpretation of "refugee".

Bombay Refugee Act, 1948.

The term "refugee" has been defined in section 2 of the Bombay Refugee Act, 1948 as meaning any person (a) who has since the first day of August 1947 entered the Province of Bombay (b) having left his place of residence elsewhere x on account of civil disturbances in that lace or the fear of such distrubances. It is true that Mr. Chadha was not physically residing in Pakistan in 1947 and has not come here from Pakistan. But he can be deemed to be constructively residing there as he had his home in that Dominion. "Where a person goes away from a parish for a temporary purpose, leaving a house or lodging behind him, he is still in effect residing in the parish. There must be both a place which he has a right to return to and an intention to return, to constitute a constructive residence" (vide Words and Phrases by Burrows p. 564, Vol. 4). Mr. Chadha's residence in England was purely x temporary as it was for studies and his intention to return to his native place can be easily inferred. Mr. Chadha has now no desire to return to that place evidently on account of civil disturbances or fear of such disturbances in Pakistan by reason of which his family has migrated to the Dominion of India and in the circumstance, there does not appear any objection to treating him as a "refugee" within the meaning of section 2 of the Bombay Refugee Act, 1948.

Sd/- P.J.L.D.

Remembrancer of Legal Affairs.

R. U.R. to Rehabilitation Department, No. 9420 Dated the 22nd Agust 1949.

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Office of the R.L.A.

The points raised in the draft circular at page 36 are:

(i) whether displaced persons coming to this province from other provinces can be refused registration under the Bombay Refugees Act, 1948 ;

(II) whether displaced persons in this Province who have not registered themselves so far can be asked to register themselves before 30th November 1949 failing which they would become ineligible for rehabilitation assistance.

On the first question the view taken by the Rehabilitation Department in the draft circular is correct.

Under section 4(i) every refugee for the time being in the province of Bombay shall within 15 days from the coming into operation of this Act or within 7 days from the day of his arrival in the province whichever is later, register himself at the Registration Office at the camp ect. Section 10(ii) 10(ii) prescribes penalty for contravention of section 1. The Act does not prescribe the eligibility or otherwise for rehabilitation assistance to persons required to be registered under the Act. It is therefore for Government to decide whether rehabilitation assistance should be made available to displaced persons who had failed to register themselves before 30th November 1949.

sd/- (P.M.L.)

Remembrancer of Legal Affairs.

U.R. to Rehabilitation Department, No. 14229,
dated the 8th December 1949.

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